

REMARKS

The Office Action mailed April 10, 2008, has been received and reviewed. Claims 1-5, 7, 8, 11, 13-18, 20-32, 34, 36-47, and 49-54 are pending in the present application. Claims 8, 11, 13 and 36-40 are allowed. Claims 24, 25, 50 and 53 are objected to but allowable if rewritten in independent form. Applicant respectfully responds to this Office Action and traverses these rejections. Applicant has amended claims 1, 14, 26 and 41.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent No. 6,598,203 and U.S. Patent No. 4,750,167.

Claims 1-5, 7, 14-18, 20-22, 26-32, 34, 41-47, 49, 51 and 52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,598,203 to Tang (“Tang”) in view of U.S. Patent No. 4,750,167 to Meyer (“Meyer”).

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974); *see also* MPEP § 2143.03. Additionally, there must be “a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742, 167 L.Ed.2d 705, 75 USLW 4289, 82 U.S.P.Q.2d 1385 (2007). Finally, to establish a *prima facie* case of obviousness there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Furthermore, the reason that would have prompted the combination and the reasonable expectation of success must be found in the prior art, common knowledge, or the nature of the problem itself, and not based on the Applicants’ disclosure. *DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006); MPEP § 2144. Underlying the obvious determination is the fact that statutorily prohibited hindsight cannot be used. *KSR*, 127 S.Ct. at 1742; *DyStar*, 464 F.3d at 1367.

The 35 U.S.C. § 103(a) obviousness rejections of claims 1-5, 7, 14-18, 20-22, 26-32, 34, 41-47, 49, 51 and 52 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art reference must teach or suggest all the claims limitations.

Regarding amended independent claim 1 with claims 2-5 and 7 depending therefrom, amended independent claim 14 with claims 15-18 and 20-22 depending therefrom, amended

independent claim 26 with claims 27-32 and 34 depending therefrom, and amended independent claim 41 with claims 42-47, 49, 51 and 52 depending therefrom, Applicant has amended independent claims 1, 14, 26 and 41 to include claim limitations not taught or suggested in the cited references.

Applicant's amended independent claims 1, 14, 26 and 41 each generally recite (1) encoding, with an outer code, a single bit stream into buffers, (2) multiplexing the encoded content of the single bit stream from the buffers, and (3) encoding, with an inner code, the multiplexed outer encoded content of the single bit stream. Specifically, Applicant's amended independent claims 1 and 14 each recite, in part:

encoding systematic bits of a bit stream in each of a plurality of [] buffers *with* a first code, the first code being *an outer code*;
multiplexing content of the plurality of [] buffers *from the bit stream*; and
encoding said multiplexed content with a second code to provide a set of frames, wherein [the] encoding said multiplexed content comprises identifying a block of bits to be encoded [and] then coding the block of bits *with* the second code, the second code being *an inner code* (Emphasis added.)

Furthermore, Applicant's amended independent claims 26 and 41 each recite, in part:

a plurality of *outer encoders* ... configured *to receive* systematic bits *from a bit stream*;
a multiplexer communicatively coupled to said plurality of [] buffers;
an inner encoder communicatively coupled to said multiplexer (Emphasis added.)

In contrast, the Office Action concedes in the Response to Arguments section, "Tang does not teach or suggest the step of encoding the multiplexed content with a second code." (Office Action, p. 3). The Office Action then introduces Meyer as teaching the missing element of encoding the multiplexed content. However, Meyer clearly teaches in Fig. 1 that the multiplexing is performed on two different channels, namely, CH1 and CH2. Accordingly, any encoding occurring after the multiplexing, as taught by Meyer, would be encoding of multiplexed data from a plurality of bit streams CH1 and CH2. However, Applicant's invention as claimed in amended independent claim 1 and claim 14 recites, in part, "*multiplexing* content of the plurality of [] buffers *from the bit stream*; and *encoding said multiplexed content* ... *with* ... *an inner code* ..." and claim 26 and claim 41 recites, in part a multiplexer that couples to a plurality of buffers to receive encoded bits from a bit stream.

Accordingly, Applicant's invention as presently claimed only secondly encodes encoded content from a single bit stream. As clearly evidenced in Meyer's Fig. 1, the data that is secondly

encoded (32) in Meyer is from two data streams CH1 and CH2 and therefore cannot and does not teach secondly encoding multiplexed firstly encoded content from a single bit stream.

Therefore, since neither Tang nor Meyer teach or suggest Applicant's claimed invention, these references, either individually or in any proper combination, **cannot** render obvious, under 35 U.S.C. §103, Applicant's invention as presently claimed in amended independent claims 1, 14, 26 and 41. Accordingly, Applicant respectfully requests the rejection of presently amended independent claims 1, 14, 26 and 41 be withdrawn.

The nonobviousness of independent claims 1, 14, 26 and 41 preclude rejections of claims 2-7, 15-18, 20-22, 27-32, 34, 42-47, 49, 51 and 52 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claims 1, 14, 26 and 41 and claims 2-7, 15-18, 20-22, 27-32, 34, 42-47, 49, 51 and 52 which depend therefrom.

Obviousness Rejection Based on U.S. Patent No. 6,598,203, U.S. Patent No. 4,750,167 and U.S. Patent No. 6,560,206.

Claims 23 and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tang in view of Meyer and in view of U.S. Patent No. 6,560,206 to Naden et al. ("Naden").

The nonobviousness of independent claims 14 and 41 preclude rejections of claims 23 and 54 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claims 14 and 41 and claims 23 and 54 which depend therefrom.

Objections to Claims 24, 25, 50 and 53/Allowable Subject Matter

Claims 8, 11, 13 and 36-40 are allowed.

Claims 24, 25, 50 and 53 stand objected to as being dependent upon rejected base claims, but are indicated to contain allowable subject matter and would be allowable if placed in appropriate independent form. Applicant acknowledges this indication with appreciation, but respectfully asserts that the claims in their present form, along with all other claims presently under consideration, are in condition for allowance.

CONCLUSION

Claims 1-5, 7, 8, 11, 13-18, 20-32, 34, 36-47 and 49-54 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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